

JUN 27 2001

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CB

In the Matter of:

AMWEST SURETY INSURANCE COMPANY
(NAIC #34983)

Respondent.

DOCKET No. 01A-159-INS

ORDER SUMMARILY SUSPENDING
CERTIFICATE OF AUTHORITY AND
NOTICE OF HEARING

The Arizona Department of Insurance (the "Department") alleges that Amwest Surety Insurance Company ("Respondent") has violated provisions of Arizona Revised Statutes ("A.R.S."), Title 20. In light of the serious nature of these allegations, the Director of Insurance for the State of Arizona ("Director") finds that the public health, safety and welfare imperatively require emergency action, within the meaning of A.R.S. §41-1092.11(B).

THEREFORE, IT IS ORDERED summarily suspending the Arizona certificate of authority held by Respondent, effective immediately, pending the proceedings commenced this date.

EFFECTIVE this 25th day of June, 2001.



CHARLES R. COHEN
Director of Insurance

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Motions to continue this matter shall be made in writing to Administrative Law Judge Lewis Kowal not less than fifteen (15) days prior to the date set for the hearing. A copy of any motion to continue shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of Administrative Hearings.

If Respondent is represented by counsel, the attorney shall be licensed to practice law in the State of Arizona or, Respondent is an insurer, it may be represented by a corporate officer, pursuant to A.R.S. §20-161(B).

Questions concerning issues raised in this Notice of Hearing should be directed to Assistant Attorney General Shelby L. Cuevas (602) 542-7725, 1275 West Washington Street, Phoenix, Arizona 85007.

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PURSUANT TO A.A.C. R20-6-106, RESPONDENT SHALL FILE A WRITTEN ANSWER WITHIN 20 DAYS AFTER ISSUANCE OF THIS NOTICE OF HEARING AND SHALL MAIL OR DELIVER A COPY OF THE ANSWER TO THE ASSISTANT ATTORNEY GENERAL DESIGNATED ABOVE. THE ANSWER SHALL STATE RESPONDENT'S POSITION OR DEFENSE AND SHALL SPECIFICALLY ADMIT OR DENY EACH ASSERTION IN THE NOTICE OF HEARING. ANY ASSERTION NOT DENIED SHALL BE DEEMED TO BE ADMITTED. ANY DEFENSE NOT RAISED IN THE ANSWER SHALL BE DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY FILED, RESPONDENT SHALL BE DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS ARE TRUE, AND TAKE WHATEVER ACTION IS APPROPRIATE, INCLUDING SUSPENSION OR REVOCATION OF A CERTIFICATE OF AUTHORITY, IMPOSITION OF A CIVIL PENALTY AND/OR RESTITUTION TO ANY PARTY INJURED.

1 The Department alleges:

2 1. Respondent is domiciled in Nebraska and presently holds a certificate of authority issued
3 by the Arizona Department of Insurance ("Department") to transact surety insurance.

4 2. On June 7, 2001 the District Court of Lancaster County, Nebraska, in State of Nebraska
5 ex rel L. Tim Wagner, Director of Insurance of the State of Nebraska v. Amwest Surety Insurance
6 Company, CI 01-2101, issued an Order of Liquidation, Declaration of Insolvency and Injunction. The
7 Order appoints Director Wagner as the Liquidator of Respondent.

8 3. The Nebraska Court, in issuing its Order, found that Respondent, based on its quarterly
9 financial statement as of March 31, 2001 which states that Respondent's liabilities exceed its assets by
10 approximately \$1.5 million, is insolvent. The Nebraska Court further found that the immediate
11 appointment of a liquidator was necessary to protect the creditors, claimants and policyholders of
12 Respondent.

13 4. Respondent no longer meets the requirements for the authority originally granted within
14 the meaning of A.R.S. §20-219(2).

15 5. Respondent is in an unsound condition or in such condition as to render its further
16 transaction of insurance in this state hazardous to the policyholders or to the people of this state, within
17 the meaning of A.R.S. §20-220(A)(3).

18 WHEREFORE, if after hearing the Director makes a finding of one or more of the above-
19 described allegations, the Director may suspend or revoke Respondent's certificate of authority pursuant
20 to A.R.S. §§20-219 and 20-220(A)(3).

21 Pursuant to A.R.S. §20-150, the Director of Insurance delegates the authority vested in the
22 Director of Insurance of the State of Arizona, whether implied or expressed, to the Director of the Office
23 of Administrative Hearings or his designee to preside over the hearing of this matter as the
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Administrative Law Judge, to make written recommendations to the Director of Insurance consisting of proposed findings of fact, proposed conclusions of law and a proposed order. This delegation does not include delegation of the authority of the Director of Insurance to make the order on hearing or other final decision in this matter.

Pursuant to A.R.S. §41-1092.01, your hearing will be conducted through the Office of Administrative Hearings, an independent agency. Enclosed is a copy of the procedures to be followed.

DATED this 19th day of June, 2001.



CHARLES R. COHEN, DIRECTOR
Arizona Department of Insurance

COPIES of the foregoing mailed/delivered
this 27th day of June 2001, to:

L. Tim Wagner, Director of Insurance
Liquidator of Amwest Surety Insurance Company
Nebraska Department of Insurance
Terminal Building
941 "O" Street, Suite 400
Lincoln, NE 68508-3639


Mike FitzGibbons
Special Deputy Liquidator
5230 Las Virgenes Road
Calabasas, CA 91302

Jack King, Executive Director
Arizona Insurance Guaranty Funds
3443 North Central, Suite 1000
Phoenix, AZ 85012

Shelby L. Cuevas
Assistant Attorney General
1275 West Washington
Phoenix, AZ 85007

1 Lewis D. Kowal, Administrative Law Judge
Office of Administrative Hearings
2 1400 West Washington, Suite 101
Phoenix, AZ 85007
3

Sara M. Begley, Deputy Director
4 Steven P. Ferguson, Assistant Director
Deloris E. Williamson, Assistant Director
5 Mary M. Butterfield, Assistant Director
Leslie Hess, Financial Affairs Legal Analyst
6 Scott Greenberg, Chief Operating Officer
Arizona Department of Insurance
7 2910 North 44th Street, Suite 210
Phoenix, AZ 85018
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10 Curvey Burton